

Message Text

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42

ACTION OPIC-06

INFO OCT-01 NEA-10 ISO-00 EB-07 L-03 AID-05 /032 W

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P R 240620Z DEC 75

FM AMEMBASSY ISLAMABAD

TO SECSTATE WASHDC PRIORITY 3385

INFO AMCONSUL KARACHI

UNCLAS ISLAMABAD 11834

E.O. 11652: N/A

TAGS: EFIN, PK

SUBJ: OPIC LOCAL CURRENCY LOAN TO PREMIER TOBACCO

REFS: A. STATE 294546

B. STATE 135260

C. KARACHI 2844

D. KARACHI 2860

E. ISLAMABAD 11681

F. STATE A-3974, JUNE 11, 1975

SUMMARY: AGREEMENT BETWEEN OPIC AND PREMIER TOBACCO FOR RUPEE LOAN OF RS.11.9 MILLION WAS SIGNED DECEMBER 23, BY AMBASSADOR AND PREMIER DIRECTOR, S.A. SALAM. DOCUMENTS SIGNED WERE THOSE TRANSMITTED WITH REF F. PREMIER TOBACCO REPS TOLD EMBASSY ON THEIR ARRIVAL HERE, HOWEVER, THAT A NUMBER OF "MINOR" CHANGES IN THE DOCUMENTS ASSOCIATED WITH THE AGREEMENT HAD BEEN AGREED ON BETWEEN PHILIP MORRIS AND OPIC, AND THAT THESE CHANGES WERE NOT REFLECTED IN THE DOCUMENTS OPIC HAD SENT EMBASSY FOR SIGNATURE. IN ADDITION, DOCUMENTS IN REF F INCLUDED SOME TYPOGRAPHICAL ERRORS. EMBASSY REQUESTS OPIC CONFIRMATION ON WHICH CHANGES OPIC MAY HAVE AGREED TO AND INSTRUCTIONS ASAP ON ACCEPTABLE PROCEDURES FOR RECORDING THESE CHANGES. WE ARE HOLDING IN EMBASSY ALL COPIES OF SIGNED AGREEMENTS AND TEXT OF AGREEMENTS PREMIER REPS BROUGHT WITH THEM INCORPORATING CHANGES, PENDING INSTRUCTIONS. END SUMMARY.

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1. AGREEMENT BETWEEN OPIC AND PREMIER TOBACCO FOR RUPEES

LOAN OF RS.11.9 MILLION WAS SIGNED AT EMBASSY DECEMBER 23. AMBASSADOR BYROADE SIGNED FOR OPIC, AND MR. S.A. SALAM, DIRECTOR, SIGNED FOR PREMIER TOBACCO. THEY SIGNED ALL FIVE COPIES OF THE AGREEMENT WHICH HAD BEEN SENT TO KARACHI, AND THENCE TO EMBASSY, UNDER COVER OF REF F.

2. PREMIER TOBACCO REPS M.A. ADENWALLA (SECRETARY) AND JOHN LEWIS (ADVISOR, ON LOAN FROM PHILIP MORRIS), WHO ACCOMPANIED SALAM, INFORMED EMBASSY ON THEIR ARRIVAL THAT THE DOCUMENTS WHICH EMBASSY HAD BEEN AUTHORIZED TO SIGN (REFS A AND B) DID NOT RPT NOT INCORPORATE CERTAIN "MINOR" CHANGES WHICH HAD BEEN AGREED BETWEEN OPIC AND COUNSEL FOR PHILIP MORRIS IN LATE JUNE 1975. THE DOCUMENTS ALSO CONTAINED A NUMBER OF TYPOGRAPHICAL ERRORS. THE CHANGES AND ERRORS, AS RECORDED ON PREMIER'S COPY OF THE LOAN AGREEMENT, ARE AS FOLLOWS:

- A. P. 1, SECOND "WHEREAS" PARAGRAPH: INSERT "INDIRECTLY" BEFORE "OWNS."
- B. P. 9, LINE 7, DELETE THE WORDS "OF MACHINERY."
- C. P.9, PARA 4.2, INSERT "INDIRECTLY" BETWEEN "WILL" AND "RETAIN".
- D. P. 14, PARA 6.10, LINE FOUR LAST WORD SHOULD READ "OF" (NOT "OR").
- E. P. 14, PARA 6.11(B), LINE THREE: FIRST THREE WORDS SHOULD READ "SUBSECTION 6.11(A) ABOVE" (NOT "SUBSECTION 5.11(A) ABOVE").
- F. P. 15, LINE THREE, SHOULD READ "SPECIFYING THE NATURE OF AND ANY ACTION...." (NOT "ANY ANY ACTION...").
- G. P. 16, PARA 8.1(B), LINE THREE, SHOULD READ "...IN SUBSECTION 7.1 ABOVE..." (NOT "...SUBSECTION 7.1(A)...").
- H. P. 18, PARA 9.2, LINE 4, INSERT "IN PAKISTAN" BETWEEN "PLACE" AND "AS."
- I. ANEX C, GUARANTY AGREEMENT BETWEEN OPIC AND PHILIP MORRIS, PAGE C1, FIRST "WHEREAS" PARAGRAPH, LINE 1: INSERT "INDIRECTLY" BEFORE "OWNS".
- J. ANEX D, OPINION OF COUNSEL, P. D1, PARA. 4, LINE FOUR: AFTER "LOAN AGREEMENT" INSERT THE FOLLOWING PHRASE: "(EXCEPT THOSE REFERRED TO IN SEC.3.3 THEREOF)."

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- K. P. D2, AT THE END OF LINE 2 CHANGE PERIOD TO COMMA AND INSERT FOLLOWING PHRASE: "PROVIDED THAT ANY REIMBURSEMENT IN US DOLLARS UNDER THE AGREEMENT OR THE NOTES SHALL REQUIRE PRIOR PERMISSION OF THE STATE BANK OF PAKISTAN".
- L. P. D2, NUMBERED PARA 5, LINE FOUR, INSERT "MATERIALLY" BETWEEN: "OR" AND "AFFECTING".
- M. P. D3, LETTERED PARA (A), LINE 5, AFTER

"COMPANY'S PRODUCTS" INSERT "PROVIDED THAT IMPORT AND EXPORT LICENSES AS THE CASE MAY BE WILL BE REQUIRED."

3. BECAUSE OUR INSTRUCTIONS FROM OPIC (REFS A AND B) MADE NO MENTION OF ANY CHANGES, THE DOCUMENTS SIGNED BY AMBASSADOR AND PREMIER DID NOT RPT NOT INCORPORATE ANY OF THESE AMENDMENTS. WE HAVE KEPT IN EMBASSY ALL COPIES OF SIGNED AGREEMENT, AND THREE COPIES OF THE TEXT OF THE AGREEMENT WHICH THE PREMIER REPRESENTATIVES HAD BROUGHT WITH THEM AND WHICH DO INCORPORATE THESE CHANGES.

4. EMBASSY REQUESTS OPIC INSTRUCTIONS ASAP ON HOW BEST TO PROCEED. IF THESE CHANGES ARE TO BE INCLUDED IN AGREEMENT, SUGGEST WE BE AUTHORIZED TO INSERT THEM ON THE FIVE SIGNED COPIES OF THE AGREEMENT, WITH BOTH PARTIES INITIALLING EACH ONE.

5. WE WILL POUCH THE NECESSARY COPIES TO OPIC, AND SUPPLY ONE TO PREMIER, AS SOON AS THIS ISSUE HAS BEEN RESOLVED.

6. THE THREE COPIES OF THE AGREEMENT TEXT WHICH PREMIER REPS HAD BROUGHT WITH THEM HAD GOP STAMP TAX ON THEM (RS. 4 EACH). COPIES SIGNED BY EMBASSY DID NOT HAVE STAMPS. PREMIER TOBACCO PEOPLE INFORM US THAT, FOR PURPOSES OF PAKISTAN LAW, LEGAL DOCUMENTS MUST HAVE THIS STAMP THE NOMINAL COST OF WHICH PREMIER IS PREPARED TO PAY. HOW MANY STAMPED EXECUTION COPIES DOES OPIC NEED?
BYROADE

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Message Attributes

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Draft Date: 24 DEC 1975
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Disposition Approved on Date:
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Disposition History: n/a
Disposition Reason:
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Margaret P. Grafeld
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